

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	NO. 2:16CR89-PPS
)	
SERGIO GARCIA, SR.,)	
)	
Defendant.)	

OPINION AND ORDER

Sergio Garcia, Sr. has returned with his sixth request for compassionate release. [DE 261.] This motion follows five previously denied requests for compassionate release due to the coronavirus pandemic. [DE 186, 198, 199, 212, 214, 237, 239, 242, 244, 247.] This latest motion will also be denied, even assuming without deciding that Garcia has satisfied the statutory requirement of exhaustion of administrative remedies. 18 U.S.C. §3582(c)(1)(A)(i).

Garcia offers two concerns in support of his latest motion for compassionate release. The first is again the COVID-19 pandemic. As Garcia well knows, the statutory authority for a sentencing court to grant compassionate release from a term of imprisonment requires a showing that “extraordinary and compelling reasons warrant such a reduction” of the defendant’s sentence. §3582(c)(1)(A)(i). Garcia’s argument concerning COVID risks is no more compelling than it has ever been. He adds no new allegations concerning his medical condition and the associated risk of infection. [DE

261 at 3.] He omits any reference to the fact that he has already survived what appears to have been a mild case of COVID infection, from which some immunity will doubtless have been gained, and does not indicate whether or not he has been vaccinated against COVID-19 with any of the 191,324 doses of vaccine administered within the Bureau of Prisons to-date. See <https://www.bop.gov/coronavirus/> (last visited 6/10/2021).

Garcia speculates that his institution – the Federal Prison Camp in Duluth, Minnesota – is “ripe for multiple reinfections.” [DE 261 at 3.] This epidemiological conclusion is unsupported by relevant evidence and cannot be credited, particularly when the website of the Bureau of Prisons currently lists no active cases of COVID-19 at FPC-Duluth. See <https://www.bop.gov/coronavirus/> (last visited 6/10/2021).

Garcia’s second contention in support of his request for compassionate release is that his mother-in-law is on her death bed in Munster, Indiana. [DE 261 at 3.] This is a sad family circumstance to be sure, but cannot reasonably be characterized as an extraordinary or compelling reason for reducing the prison term of one convicted of serious felonies. The penalty of incarceration removes a defendant from society at large, as well as from intimate participation in the life of his family, including major events such as births, weddings, illness, and death. While I am sympathetic to Garcia’s concern for his mother-and-law, and his desire to support his wife during this difficult time, the matter is not one that supports compassionate release under §3582(c)(1)(A)(i).

ACCORDINGLY:

Sergio Garcia, Sr.'s latest "Motion Seeking Compassionate Release via 18 U.S.C. §3582(c)(1)(A)" [DE 261] is DENIED.

SO ORDERED.

ENTERED: June 10, 2021.

/s/ Philip P. Simon

UNITED STATES DISTRICT JUDGE